



UNITED STATES MARINE CORPS

MARINE FORCES RESERVE
2000 OPELOUSAS AVENUE
NEW ORLEANS, LA 70114-1500

IN REPLY REFER TO

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Ser Counsel/2019-006929

30 August 19

VIA ELECTRONIC MAIL

Mr. Vincent Lesch
Kreindler & Kreindler LLP
750 Third Ave
New York, NY 10017-2703
vlesch@kreindler.com

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUEST CASE NUMBER DON-
USMC-2019-006929

Dear Mr. Lesch:

This letter refers to your March 3, 2019, Freedom of Information Act (FOIA) request. You requested a multitude of records related to the Yanky 72 mishap in Mississippi in July 2017.

Your request was received by this office on May 29, 2019, and assigned tracking number DON-USMC-2019-006929 by the FOIA online system. Please mention this tracking number in any correspondence regarding your request. You can access the FOIA online system at foiaonline.regulations.gov.

As we discussed, given the large number of records requested and the time necessary for review, we will release documents to you as they become available. As a result, this is the first of a multi-part response pursuant to your request.

This release focuses on items #7, #8, and #9 of your Touhy/FOIA request. Item #7 requested "any and all other investigation photos of the scene, crash site and/or wreckage of the subject aircraft." Marine Forces Reserve located one thousand five hundred eleven (1,511) pages of records responsive to your request. We are releasing one thousand four hundred thirty-six (1,436) pages with certain redactions pursuant to Title 5, United States Code, Sections 552(b)(6) and (b)(7)(C). Seventy-five (75) pages have been withheld in their entirety. Under (b)(6), release of the redacted information could reasonably be expected to constitute an unwarranted invasion of personal privacy for third party individuals. Some photographs have been redacted or withheld in their entirety under (b)(7)(C) because the depictions include death scenes and the public

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interest in these depictions does not outweigh the personal privacy interests of the victims' families.

Item #8 requested "any and all witness statements." The majority of the witness statements were released with the public release of the investigation, which can be found here: <https://www.hqmc.marines.mil/Agencies/USMC-FOIA/FRR/>. In addition to those statements, nineteen (19) pages were located responsive to your request. We are releasing all nineteen (19) pages with certain redactions pursuant to Title 5, United States Code, Sections 552(b)(6). Release of the withheld information could reasonably be expected to constitute an unwarranted invasion of personal privacy for third party individuals. More specifically, the information redacted is the names and/or personal identifying information of third-party individuals.

Item #9 requested "a complete and unredacted copy of the Lockheed Martin Aeronautics Company Technical Report included with the Marine Corps CIR as Enclosure 13, including any and all documents, attachments, emails, drafts, notes, photographs, or data related to said report." This report has already been previously released along with the investigation, which can be found here: <https://www.hqmc.marines.mil/Agencies/USMC-FOIA/FRR/>. MARFORRES cannot release an unredacted version of this report as the redactions made in the public release are in compliance with FOIA exemptions. As for "any and all documents, attachments, emails, drafts, notes, photographs, or data related to said report..." we found no responsive records. Given that the report was compiled by a private entity, we believe these items, if they exist, would reside with that entity.

Because certain information has been redacted and withheld, you may consider this to be an adverse determination that may be appealed. If you have created an account in FOIAonline, you may submit your appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. If you do not have a FOIAonline account, you may send an appeal by regular mail to the Department of the Navy, Judge Advocate General (Code 14), Washington Navy Yard, 1322 Patterson Avenue, SE, Suite 3000, Washington, DC 20374-5066. Your appeal, if any, must be postmarked within ninety (90) calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe your appeal should be granted. I recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal." Please mail a copy of your appeal to the Marine Forces Reserve FOIA

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Coordinator, 2000 Opelousas Ave, Room 4E5311, New Orleans, LA 70114-1500. If necessary, you have the burden of proving your appeal is submitted in a timely fashion.

You also have the right to seek assistance and/or dispute resolution services from the Marine Corps FOIA Public Liaison, Ms. Sally Hughes, at hqmcfoia@usmc.mil or (703) 614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or (703) 697-0031. You may also contact the Office of Government Information Services (OGIS) for assistance and/or dispute resolution at ogis@nara.gov or (877) 684-6448. For more information online about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

No fees were assessed on this request. However, fees are assessed on a case-by-case basis, and you may be charged fees on future requests.

Should you have any questions, please feel free to contact me at (504) 697-8143 or Anderson.Thomas@usmc.mil.

Sincerely,

Anderson E. Thomas
FOIA Coordinator
U.S. Marine Forces Reserve